

SCOTT N. SCHOOLS (SCBN 9990)
United States Attorney

BRIAN J. STRETCH (CSBN 163973)
Chief, Criminal Division

PATRICIA J. KENNEY (CSBN 130238)
Assistant United States Attorney

450 Golden Gate Avenue
San Francisco, CA 94102
Telephone: 415.436.6857
Facsimile: 415.436.6748
Email: patricia.kenney@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
\$70,000 IN UNITED STATES)
CURRENCY,)
)
Defendant.)

No. 07-3359 WHA

JOINT CASE
MANAGEMENT STATEMENT

Date: October 18, 2007
Time: 11:00 a.m.
Place: Courtroom 9, 19th Floor
Federal Building
450 Golden Gate Avenue
San Francisco, CA

Pursuant to the Court's June 26, 2007 scheduling order and the Court's order entered
October 11, 2007, the parties submit this case management statement:

1. The basis for this Court's subject-matter jurisdiction and whether any issue exists regarding personal jurisdiction or venue.

This is a civil forfeiture action. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1345 and 1355(a), and 21 U.S.C. § 881(a)(6).

///

1
2 **2. A brief description of the case and defenses and description of any related**
3 **proceeding, including any administrative proceedings.**

4 **The United States's Position:**

5 This is a forfeiture action against defendant \$70,000 in United States Currency seized
6 along with almost one pounds of marijuana during the execution of a search warrant. 21 U.S.C.
7 § 881(a)(6). Specifically, at approximately 6:20 a.m. on or about February 10, 2007, Special
8 Agents of the Drug Enforcement Administration ("DEA") as well as other law enforcement
9 officers executed a search warrant at 3588 Pine Flat Road, Santa Cruz, California, which is the
10 residence of Jimmy Dale Labranch ("LABRANCH"). Law enforcement officers knocked on the
11 door, a door without windows, and loudly announced their presence three times stating "Police,
12 Search Warrant." LABRANCH opened the door holding a pistol (later determined to be a loaded
13 Colt 0.38 caliber revolver, serial number 658635) in his right hand with the barrel pointed up
14 toward the ceiling. Agents could not determine if LABRANCH had his finger on the trigger but
15 immediately ordered LABRANCH to put the firearm down. LABRANCH placed the pistol on a
16 kitchen counter and then complied with agents' request to get on the ground. LABRANCH was
17 handcuffed for about 20 minutes until agents secured 3588 Pine Flat Road. A subsequent law
18 enforcement check of the Colt 0.38 caliber revolver identified it as a "destroyed" weapon that
19 was not to be in circulation. LABRANCH surrendered the Colt 0.38 caliber revolver to the Santa
20 Cruz Sheriff's Office.

21 During the search, law enforcement agents and officers found almost one
22 pound of processed marijuana in two different locations: Agents seized 405.2 grams of
23 marijuana from a storage area in the garage (the garage was part of the ground floor of the
24 residence) and 7.4 grams of marijuana from a bedroom on the ground floor. Defendant \$70,000
25 was found in Labranch's bedroom on the second floor. During the execution of the search
26 warrant, five firearms were seized: (1) Remington Model 742 Woodmaster .308 Caliber Rifle;
27 (2) Winchester Model X-70 30/30 Rifle; (3) Ruger Model 10/22 0.22 Caliber Rifle; (4) Browning
28 Gold Hunter 12 Gauge Shotgun; and (5) Norinco Mak-90 Sportster Mak 90 7.62x39mm Caliber
Rifle. The firearms were subsequently forfeited administratively. Although the firearms were

1 originally defendants in this action, the United States and claimant Labranch agreed to dismiss
2 them as defendants and the Court entered an order dismissing them on October 11, 2007.

3 Further, the United States submits that there is an ongoing criminal investigation
4 involving claimant Labranch and requests the Court to stay the action.

5 **Claimant Jimmy Labranch's Position:**

6 Claimant Labranch asserts that defendant \$70,000 is not (1) money furnished or intended
7 to be furnished by in exchange for an illegal controlled substance; (2) proceeds traceable to such
8 an exchange; or (3) money used or intended to be used to facilitate any violation of the
9 Controlled Substances Act.

10 Claimant Labranch agrees that the instant case should be stayed pending resolution of the
11 criminal investigation. 18 U.S.C. § 981(g)(2). To proceed with the civil forfeiture action would
12 burden claimant's Fifth Amendment rights. Further, it is difficult for claimant to formulate a
13 discovery plan if the government is unwilling to disclose information involved in its ongoing
14 investigation.

15 IT IS SO STIPULATED:

SCOTT N. SCHOOLS
United States Attorney

16 Dated: October 11, 2007

17 /s/
18 PATRICIA J. KENNEY
Assistant United States Attorney
Attorney for the United States

19 Dated: October 11, 2007

20 /s/
21 PETER A. LEEMING
Attorney for Claimant
Jimmy Dale Labranch

22
23 PURSUANT TO THE FOREGOING STIPULATION, IT IS SO ORDERED ON THIS _____
24 OF OCTOBER, 2007.

25
26 HONORABLE WILLIAM H. ALSUP
United States District Judge